

August 8, 2018

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, MD 21286

Re: Seminary Falls Partnership – Bedford Property  
Forest Conservation Variance  
Tracking #03-18-2677

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was originally received by this Department on March 13, 2018. Since then, the proposed lot layout was revised on July 24, 2018 based on EPS approval conditions of a forest retention investigation report and the perc test results. The current request seeks a variance to impact five specimen trees to develop a proposed 6-lot residential subdivision on a 21.3-acre property. All of the specimen trees onsite are within forest. The five specimens to be removed include: a 32-inch DBH tulip poplar in good condition, a 44-inch DBH tulip poplar in good condition, a 48-inch DBH tulip poplar in good condition, a 31-inch DBH tulip poplar in good condition, and a 34-inch DBH tulip poplar in fair condition. There are eight other specimen trees on the property that are to be retained in a Forest Conservation Easement (FCE).

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to develop the property into six single family dwelling lots. As it would still be possible to construct one or more homes while avoiding impacts to specimen trees, full application of the law would not deprive

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the applicant of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to the locations of the five specimen trees relative to the buildable area rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of single-family homes of similar density to that proposed for the subject property. As such, the construction of six new homes on 21 acres will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any wetlands, streams, or associated buffer areas. Furthermore, the specimen trees to be removed are not within the Forest Buffer Easement to protect Deep Run that will be established onsite. Additionally, that forested riparian buffer will be expanded by approximately 9 acres, which will further contribute to water quality management. As a result, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although five specimen trees are to be removed in addition to the clearing of 12.1 acres of forest, the break-even point of forest retention would be exceeded. Moreover, the forest to be retained in the FCE is of higher quality than the forest to be cleared and is contiguous with riparian buffer and the largest forested areas on adjacent properties. Therefore, this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent on the following conditions:

1. The following note must be on all subsequent plans for this development project:

“A variance was granted on August 8, 2018 by Baltimore County Dept. of Environmental Protection & Sustainability to allow impact to five specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met including expansion of forest conservation easement to protect all forest outside of the development envelope.”

2. The preliminary forest conservation plan (FCP) shall be revised to expand the FCE to protect all forest outside of the development envelope. The FCP must be reviewed and approved by EPS staff prior to development plan submission.
3. This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County’s Forest Conservation Law.
4. Mitigation for the removal of the five specimen trees is not required, given they are in forest to be mitigated and protected in accordance with Sections 33-6-111 and 33-6-112 of the Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

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DVL/lbe

- c. Mr. Bruce Doak, Bruce E. Doak Consulting, LLC  
Ms. Marian Honeczy, Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

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Owner's Signature

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Date

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Printed Name